

the health of American families across the country.

I am proud to say that my State, New Jersey, has taken the helm on reducing its own instate emissions. Last year, New Jersey adopted stringent rules on mercury emissions from coal-fired powerplants, iron and steel melters, and municipal solid waste incinerators. New Jersey's rules set the goal of reducing emissions from instate coal-fired plants by 90 percent by the year 2007. By taking this hard line on mercury, my State will reduce its mercury emissions by over 1,500 pounds of mercury each year.

While New Jersey has implemented this aggressive strategy in the fight to protect the public from mercury exposure, the new Bush administration rule undermines these efforts. More than one-third of mercury deposition in New Jersey comes from out-of-state sources. Instead of allowing more mercury emissions from coal-fired plants, shouldn't the Federal Government be strengthening its laws by requiring States to adopt strict rules similar to New Jersey's? Instead, it is removing powerplants from the list of pollution sources subject to stringent pollution controls under the Federal Clean Air Act. Why does the administration want to undercut States, such as New Jersey, that are making the right decision?

Thankfully, New Jersey has not backed down, and stands by its goal to reduce mercury emissions. In fact, New Jersey spearheaded a multistate lawsuit challenging the EPA's rule delisting powerplants as a source of mercury pollution. Fourteen States have joined New Jersey's challenge to this rule because it violates the Clean Air Act and fails to protect the public adequately from the harmful mercury emissions from coal-fired powerplants.

The health effects of mercury are no secret. Mercury is a known neurotoxin that can cause severe neurological and developmental problems. Developing fetuses and children are the most vulnerable to the effects of mercury contamination. The threat is so severe that the National Academy of Sciences recommends that pregnant and nursing mothers not eat more than 6 ounces of fish per month. Even by EPA's own estimates, more than 600,000 infants are born each year with blood mercury levels higher than 5.8 parts per billion, the EPA level of concern. That is 600,000 children who are at risk of harmful impacts on cognitive thinking, memory, attention, language, and fine motor and visual spatial skills. Some studies indicate that mercury could even be linked to the skyrocketing number of autism cases across the country.

The numbers continue to astonish. Fish from waters in 45 of our 50 States have been declared unsafe to eat as a result of poisoning from mercury. In New Jersey alone, there are mercury consumption advisories for at least one species of fish in almost every body of water in the State.

Knowing these health risks, we cannot be complacent about this new rule. How can we sit back and let powerplants, the Nation's worst mercury polluters, reduce their mercury emissions by such a drastically different rate than what the Clean Air Act requires? This is morally repugnant, irresponsible and just plain wrong.

We have the technology to control mercury emissions—that is not the problem. The problem is that industry does not want to be accountable for the costs of polluting, and the Bush administration is letting them get away with that. Instead, the public will incur the health costs of not reducing emissions. Once again, it is clear that the administration has no problem letting big industry off the hook at the expense of the public's health.

The science is behind us and the technology available to reduce human exposure to mercury. We cannot retreat; we must move forward and protect our Nation's children. I urge my colleagues to support the resolution.

Mrs. BOXER. Mr. President, just over 5 short months ago, the Bush administration finalized a rule that weakens and delays required controls on emissions of mercury from coal- and oil-fired powerplants. We should overturn this rule today.

This vote presents a clear choice: does the United States Senate support protecting the health of millions of children in our nation, or does it support protecting the profits of industries that emit mercury, which poisons our children and environment?

The Bush administration supports the interests of polluting industries. The administration's rule saves the electric industry money, but at a severe cost to public health. The administration has—once again—used the Federal Environmental Protection Agency to protect polluters.

Mercury is a potent poison. Studies show that it may damage the human cardiovascular, endocrine, immune, and respiratory systems. It also harms the nervous systems of developing fetuses. Low levels of mercury exposure in utero can damage a fetus's brain and create long-term injuries, including learning disabilities, poor academic performance, and reduced capacity to do everyday activities like drawing and learning to speak.

Up to 637,000 children are born each year having already been exposed to levels of mercury associated with brain damage.

Just last week, on Sept. 8, 2005, the Center for Children's Health and the Environment, located at Mount Sinai Medical Center, found that more than 1,500 babies suffer from metal retardation due to mercury exposure in utero. In addition to the life-long personal impacts, the study found that the nation loses \$2 billion annually from such injuries.

Forty-five States warn people to reduce or avoid consumption of fish from waterbodies that contain mercury due

to the risk associated with eating these fish. Mercury levels become concentrated in some fish, reaching more than one million times the level of mercury in the water.

Where does this mercury come from? Powerplants are the single largest source of U.S. emissions of mercury, accounting for 44 percent of all such emissions. These powerplants emit 30 percent of the mercury that currently pollutes U.S. waters. Fish contaminated with mercury is the main source of exposure for people in our nation.

The Clean Air Act requires reductions in mercury emissions that are crucial to protect public health. But, the Bush administration has decided to ignore the law.

EPA's rule on coal- and oil-fired powerplants implements slower and weaker requirements than under the Clean Air Act. This ill-advised rule delays reductions for 10 years and allows higher emissions of mercury, compared to the Clean Air Act's requirements. EPA's projected reductions in emissions under the rule do not meet the reductions required by the Clean Air Act. And, in fact, this chart shows the reductions do not even meet what the rule itself calls for.

Why did the EPA get it so wrong?

Well, for starters, EPA used language from utility-industry lawyers—almost word for word—to create the rule.

On September 22, 2004, the Washington Post reported that:

For the third time, environmental advocates discovered passages in the Bush administration's proposal for regulating mercury pollution from power plants that mirror almost word for word portions of memos written by a law firm representing coal-fired power plants. . . . The EPA used nearly identical language in its rule, changing just eight words. In a separate section, the agency used the same italics [the law firm] used in their memo . . .

Let me repeat the last part. The industry memo and the rule that EPA proposed even used the same italics.

What else did EPA do wrong?

The EPA's own inspector general found that senior EPA officials told career EPA staff to produce a rule that allowed 34 tons of annual mercury emissions, rather than to produce a rule that complied with the law.

Let me quote from a 2005 EPA inspector general report that examined EPA's mercury rule:

Evidence indicates that EPA senior management instructed EPA staff to develop a Maximum Achievable Control Technology (MACT) standard for mercury that would result in national emissions of 34 tons annually, instead of basing the standard on an unbiased determination of what the top performing units were achieving in practice.

Again, this bears repeating: Senior EPA officials rigged the rulemaking to allow the power industry to emit a heavy metal that can poison children.

But, it doesn't end there.

Both EPA's inspector general and Congress's Government Accountability Office found that EPA failed to assess all of the public health benefits of reducing mercury. EPA ignored demands